

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE: TESTOSTERONE REPLACEMENT
THERAPY PRODUCTS LIABILITY
LITIGATION**

**Case No. 1:14-cv-1748
MDL No. 2545
Hon. Matthew F. Kennelly**

THIS DOCUMENT RELATES TO:

Jerry Ellis v. AbbVie Inc. et al.
Case No. 1:15-cv-03901

**RESPONSE TO DEFENDANTS' RENEWED
MOTION TO DISMISS WITH PREJUDICE
PURSUANT TO AMENDED CASE MANAGEMENT ORDER NO. 9**

Comes the Plaintiff, Jerry Ellis, deceased, by and through counsel, and for his Response to Defendants' Renewed Motion to Dismiss With Prejudice Pursuant To Amended Case Management Order No. 9, states as follows:

1. Defendants' Motion to Dismiss with Prejudice Pursuant to Case Management Order No. 9 was initially filed on February 12, 2016 (Dkt. No. 9).
2. Counsel for the deceased Plaintiff, Jerry Ellis, filed a Response to Defendants' Motion to Dismiss with Prejudice Pursuant to Case Management Order No. 9 ("Plaintiff's Response") on March 18, 2016 (Dkt. No. 12). Subsequently, on March 21, 2016, Defendants filed a Reply (Dkt. No. 13); and on March 25, 2016 Plaintiff filed a Motion for Leave to File a Sur-Reply with a tendered Sur-Reply to Defendants' Motion to Dismiss (Dkt. Nos. 14 and 14-1).
3. Since the filing of Plaintiff's Response, Jerry Ellis, Jr., alleged son of the deceased Plaintiff, came forward to the undersigned Counsel and expressed an intention to become Personal Representative of the Estate of Jerry Ellis, Sr., for purposes of continuing his deceased father's claims against the above Defendants.

4. This Court issued an order on May 3, 2016 giving Plaintiff leave until May 31, 2016 to file a Motion for Leave to Amend and Substitute the Representative of the Estate of Jerry Ellis, Sr. as Plaintiff (Dkt. No. 16).

5. Pursuant to two Agreed Orders, this Court granted two extensions of the deadline for Plaintiff to comply with this Court's May 3, 2016 order and substitute the Personal Representative as Plaintiff (Dkt. Nos. 18 and 20).

6. Plaintiff requested these extensions pursuant to conversations with the potential Personal Representative, Jerry Ellis, Jr., wherein Counsel for Plaintiff learned of Mr. Ellis' intention to open an estate and seek appointment.

7. Since that time, Counsel for Plaintiff has lost communication with Jerry Ellis, Jr., despite numerous attempts to reach him by phone, email and conventional mail.

8. Counsel for Plaintiff notified Jerry Ellis, Jr. of Counsel's intent to withdraw due to a lack of communication, and provided Jerry Ellis, Jr. with a copy of Counsel's Motion to Withdraw by email and mail. This motion was denied on August 8, 2016 (Dkt. No. 26).

9. Counsel is providing this Response to inform the Court of Jerry Ellis, Sr.'s death, and his heir's lack of appointment and communication with Counsel regarding this matter.

10. Counsel cannot provide an executed Plaintiff Fact Sheet ("PFS") as there is no person that has come forward as Personal Representative of the Estate of Jerry Ellis, Sr. to execute the PFS.

11. There is no current estate opened regarding Jerry Ellis, Sr., and no potential heir who has taken any further steps to gain appointment as Personal Representative.

Dated: August 10, 2016

/s/ Kate A. Dunnington

Kate A. Dunnington

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Counsel for the Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2016, I electronically filed the foregoing with the Clerk of the Court through the ECF system which will provide notice of this filing to all registered attorneys of record.

/s/ Kate A. Dunnington